

ANALYSIS OF ORIGINAL BILL

Author: Cardenas Analyst: Jeani Brent Bill Number: AB 2258
Related Bills: AB 265 (1997); AB 2073
(1996) Telephone: 845-3410 Introduced Date: 02/19/98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Alternative Minimum Tax Treatment of Appreciated Property Contributions/
Conformity

SUMMARY

This bill would conform the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL) to the federal repeal of the tax preference treatment of contributions of appreciated property in computing alternative minimum tax (AMT).

EFFECTIVE DATE

This bill would apply with respect to the charitable contributions of appreciated property made in taxable and income years beginning on or after January 1, 1998.

PROGRAM BACKGROUND

Under prior federal law, for purposes of computing AMT, the amount of any deduction (generally the fair market value) for charitable contributions of appreciated property (real, personal, or intangible) that exceeds the taxpayer's adjusted basis in the property was treated as a tax preference item. Congress suspended this AMT treatment of appreciated property for the 1991 and 1992 taxable years and, with the Revenue Reconciliation Act of 1993, repealed that treatment.

SPECIFIC FINDINGS

Existing state and federal laws allow deductions from income for charitable contributions. Individuals generally can deduct up to 30% of their adjusted gross income for contributions of appreciated property. Corporations can deduct up to 10% of their taxable income.

Under federal and state laws, in computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization, including certain appreciated property donated to a charitable organization. However, in the case of a charitable contribution of inventory or other ordinary income property, short-

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ X ___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director Date
Gerald H. Goldberg 3/23/98

Agency Secretary Date

By: Date

term capital gain property, or certain gifts to private foundations, the amount of the deduction is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, a taxpayer's deduction is limited to the adjusted basis in the property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.

Under federal law, contributions of appreciated property are not treated as tax preference items for purposes of computing AMT.

Under state law, for purposes of computing AMT, the amount of any deduction (generally the fair market value) for charitable contributions of appreciated property (real, personal, or intangible) that exceeds the taxpayer's adjusted basis in the property is treated as a tax preference item. In most cases, under the B&CTL, the corporation AMT calculation is not impacted because the allowable charitable contribution deduction for regular tax is limited to the adjusted basis of the contributed property.

AB 2258 would conform both the PITL and the B&CTL to the federal repeal of the tax preference treatment of contributions of appreciated property in computing AMT.

Implementation Considerations

Implementing this bill would occur during the department's normal annual system update.

Technical Considerations

This bill would remove the modifications to the Internal Revenue Code (IRC) which currently preserve the state/federal differences regarding the AMT treatment of appreciated property contributions, and would include language to specifically conform California law to the 1993 changes in federal law made to IRC Sections 53, 56, and 57. However, since Senate Bill 455 (Stats. 1997, Ch. 611) provided general conformity to federal law as it existed January 1, 1997, it is only necessary in this bill to remove the modification to the IRC provisions, thereby fully conforming California law to the IRC as it existed January 1, 1997. To include the specific conformity language would be unnecessarily redundant and potentially confusing for taxpayers. The attached amendments would remove the unnecessary language.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses from this bill are estimated to be:

Effective January 1, 1998 Enacted After June 30, 1998 (Millions)			
	1998-9	1999-0	2000-1
Personal Income Tax	(\$3)	(\$3)	(\$3)
Bank & Corporation Tax	Minor *	Minor *	Minor *
Total Impact	(\$3)	(\$3)	(\$3)

* Minor loss = less than \$500,000 annually.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses from this provision would depend on the amount of reduced alternative minimum taxable income due to contributions of appreciated property and the impact this has on lower TMT (tentative minimum tax) relative to the regular tax.

Estimates have been developed previously for this provision based on the latest federal projections and adjusted to reflect annual growth. Estimates reflect a January 1, 1998, effective date with enactment assumed after June 30, 1998.

BOARD POSITION

Pending.

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Attorney Doug Bramhall

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2258
As Introduced February 19, 1998

AMENDMENT 1

On page 6, line 6, strikeout "The amendments made by" and strikeout lines 7 through 12, inclusive.

AMENDMENT 2

On page 7, line 1, strikeout "The amendments made by" and strikeout lines 2 through 7, inclusive.